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12
13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 KEVIN VANDGINDEREN,

16 Plaintiff,

17 v.

18 CORNELL UNIVERSITY,

19 Defendant.

) Case No. 07-CV-2045-BTM-JMA

) Hon. Barry T. Moskowitz

) DECLARATION OF VALERIE
) CROSS DORN IN SUPPORT OF
) DEFENDANT'S REQUEST FOR
) JUDICIAL NOTICE IN SUPPORT
) OF SPECIAL MOTION TO STRIKE
) PLAINTIFF'S COMPLAINT
) PURSUANT TO SECTION 425.16
) OF THE CALIFORNIA CODE OF
) CIVIL PROCEDURE

22 [Per chambers, no oral argument
23 unless requested by the Court]

24 [Special Motion to Strike and
25 Request for Judicial Notice filed
26 concurrently]

Hearing Date: December 21, 2007

Time: 11:00 a.m.

Place: Courtroom 15

Action Filed: October 1, 2007

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DECLARATION OF VALERIE CROSS DORN IN SUPPORT OF REQUEST FOR JUDICIAL
NOTICE

DECLARATION OF VALERIE CROSS DORN

I, Valerie Cross Dorn, declare as follows:

1. I am an attorney admitted to practice before the courts of the State of New York, among others, and I serve as Associate University Counsel at Cornell University in Ithaca, New York. I have personal knowledge of the facts set forth herein through my position with Cornell University.

2. I submit this Declaration in support of the Defendant's Request for Judicial Notice in Support of Special Motion to Strike ("Request for Judicial Notice"). If called as a witness, I could and would testify competently to the following.

3. I am informed and believe that on September 3, 2007, the Cornell University Library received an e-mail from plaintiff Kevin Vanginderen ("Plaintiff") in which Plaintiff requested that the library remove the portion of the digitized *Cornell Chronicle* article, dated March 17, 1983, that describes charges against him for criminal activity on the Cornell campus. A true and correct copy of Plaintiff's September 3, 2007 e-mail received by the Library is attached as Exhibit C to the Request for Judicial Notice.

4. Upon the service of Plaintiff's Summons and Complaint on Cornell on October 3, 2007, my office filed an application in Ithaca City Court for an Order to Show Cause seeking the unsealing of plaintiff's records pursuant to New York Criminal Procedure Law section 160.50.

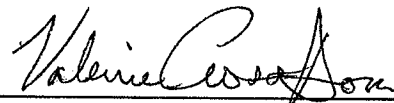
5. On October 15, 2007, I received a telephone call from the City Court Clerk's Office informing me that the records were not sealed and were available for pickup. I obtained those records on October 16, 2007. The records are attached as Exhibit A to the Request for Judicial Notice.

6. Also on October 15, the City Court Clerk informed me that the County Court of Tompkins County possesses sealed records relating to the criminal charges against Plaintiff. Because Plaintiff has refused to stipulate to unsealing any of his

1 criminal records, this office made an application to the County Court of Tompkins
2 County that resulted in an Order to Show Cause why the records should not be
3 unsealed, returnable on November 16, 2007. A true and correct copy of the Order to
4 Show Cause issued by the County Court of Tompkins County with the moving
5 papers submitted in support thereof is attached to the Request for Judicial Notice as
6 Exhibit D.

7 7. The additional criminal records will be provided to this Court if and
8 when they become available.

9 I declare under penalty of perjury under the laws of the State of California,
10 and the United States of America that the foregoing is true and correct
11 and that this declaration was executed this 31st day of October, 2007, at Ithaca,
12 New York.

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15 Valerie Cross Dorn
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